

TRANSLATION

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference R 44690	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/AT2005/000030	International filing date (day/month/year) 02.02.2005	Priority date (day/month/year) 04.02.2004
International Patent Classification (IPC) or national classification and IPC B23K9/133		
Applicant FRONIUS INTERNATIONAL GMBH		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of _____ sheets, including this cover sheet.

3. This report is also accompanied by ANNEXES, comprising:

a. ☒ (sent to the applicant and to the International Bureau) a total of 7 sheets, as follows:

☒ sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).

☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____ containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the report
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input checked="" type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input checked="" type="checkbox"/>	Box No. VII	Certain defects in the international application
<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I

Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____ which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-28 _____ as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* 1-40 _____ received by this Authority on 29.11.2005 with letter of 29.11.2005
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets 1/5-15/15 _____ as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (specify): _____
- ☐ any table(s) related to sequence listing (specify): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (specify): _____
- ☐ any table(s) related to sequence listing (specify): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. IV

Lack of unity of invention

1. ☐ In response to the invitation to restrict or pay additional fees the applicant has:
- ☐ restricted the claims.
 - ☐ paid additional fees.
 - ☐ paid additional fees under protest.
 - ☐ neither restricted the claims nor paid additional fees.
2. ☒ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is:
- ☐ complied with.
 - ☒ not complied with for the following reasons:

See supplemental sheet

4. Consequently, this report has been established in respect of the following parts of the international application:

- ☒ all parts.
- ☐ the parts relating to claims Nos. _____

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>1-40</u>	YES
	Claims _____	NO
Inventive step (IS)	Claims <u>1-40</u>	YES
	Claims _____	NO
Industrial applicability (IA)	Claims <u>1-40</u>	YES
	Claims _____	NO

2. Citations and explanations (Rule 70.7)

1. a) Document US-A-4 954 690 is considered to be the closest prior art to the subject matter of claim 1. It discloses (the references between parentheses refer to this document):

a welding torch (10) having a torch housing, wherein a drive unit formed from at least one drive roller (54) and a pressure roller (52) and a drive motor (16) and intended for feeding a welding wire (40) is arranged in the torch housing.

- b) The subject matter of claim 1 differs in that part of the torch housing (28) is designed as a stator housing of the drive motor (33) of the drive unit (30), and in that bearings (43, 44) for stabilizing and positioning a rotor (45) of the drive motor (33) are provided on the torch housing (28).

- c) A welding torch of compact type of construction is therefore proposed which permits improved cooling.

2. Claims 2-39 are dependent on claim 1. Claim 40 - reworded in order to refer to a welding torch according to claims

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Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

1-39 - would also be dependent.

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

1. Claims 1-39 mention a welding torch; claim 40 mentions a wire feed unit. It can be seen from the description (page 2, lines 3-6) that *"The problem addressed by the present invention is therefore to provide a welding torch or a wire feed unit in which the smallest possible overall size having an electric drive unit is created"*.

This alternative use of "welding torch" and "wire feed unit" does not comply with PCT Rule 10.2 - Regulations - *The terminology and the signs shall be consistent throughout the international application.*

2. The description is not consistent with the claims (PCT Rule 5.1(a)(iii)).
3. Contrary to PCT Rule 5.1(a)(ii), the description does not cite documents US-A-4 954 690 and GB-A-1 449 232 or indicate the relevant prior art disclosed therein.

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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

1. Since it is not permitted to combine preceding claims in one reference (PCT Rule 6.4(a)), the expression "or more" in claim 40 should be deleted.

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of:

Box I

1. As agreed by telephone (12.01.06), the examiner has only examined claims 1-40 and disregarded claims 41-50.

Box IV

1. The various groups of alleged inventions are claims 1-39 (welding torch) and claim 40 (wire feed unit).

Lack of unity - a priori

2. The special technical feature of independent claim 1 is specified as "that part of the torch housing (28) is designed as a stator housing of the drive motor (33) of the drive unit (30), and that bearings (43, 44) for stabilizing and positioning a rotor (45) of the drive motor (33) are provided on the torch housing (28)".

The special technical feature of independent claim 40 is specified as "that the wire feed unit is designed according to one or more of the preceding claims 1 to 39", which is confusing, because claims 1-39 do not define a wire feed unit as such.

The groups of alleged inventions do not address the same technical problem and do not share a common or corresponding technical feature.